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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
KOCH, GEORGE R	

ART UNIT	PAPER NUMBER
1734	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/771,881	SANZONE ET AL.	
	Examiner	Art Unit	
	George R. Koch III	1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *20-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *20-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 20, 21, 24-26 and 39-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Hogerton (US 2003/0189490 A1).

Hogerton discloses a method of applying an RFID label to an item (abstract), the label having a transponder (RFID tags 66), the method comprising the steps of: positioning a label adjacent an application zone (For example, next to interrogator 100 in Figures 2-5), testing the label for viability adjacent the application zone (via interrogator 100 - see paragraph 0047, 0055, 0056); communicating the result of the test to a control circuit (see paragraph 0058, which discloses a control system for operating the sensors and motors); allowing the control circuit to communicate with a power supply (see paragraph 0057); and operating the power supply to move the label to the item if the label is viable (paragraph 0057). Furthermore, Hogerton discloses that the label is tested when the label is positioned at least partially on an applicator head (see dispensing mechanism 126 - interrogator 100 is adjacent this mechanism and tests the RFID while the label is disposed thereon as in Figures 2-5) and Hogerton also discloses testing the label when the label is in contact with an applicator head (see Figure 11).

As to claim 21, Hogerton discloses that the interrogator includes antennas (see paragraph 0045) and thus discloses the step of operating an RFID antenna adjacent the application zone to test the viability of the label.

As to claim 24, Hogerton discloses the step of writing to the label after the test has confirmed a viable label (for example, see paragraph 0055, lines 9-14).

As to claim 25, Hogerton discloses the steps of testing information written to the label for viability of the information (see paragraph 0055, lines 14-16, which discloses verification) and applying the label to the item if the information is viable and moving the label to a reject area if the information is non-viable (see paragraphs 0055-0056).

As to claim 26, Hogerton as applied in claim 25 above discloses the step of moving the label to a reject area if the test reveals that the label is non-viable.

As to claims 39 and 40, Hogerton discloses at least partially separating by fully separating the label (see Figure 11).

Claim Rejections - 35 USC § 103

3. Claims 23, 28, 41-42, 47-49 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogerton (US 2003/0189490 A1) as applied to claims 20-22, 24-26 and 34-36 above, and further in view of Hohberger (2003/0063001 A1).

As to claim 23, 40, 41, 48 Hogerton does not disclose the testing step includes coupling the antenna electronically to the label through at least a portion of the applicator head.

However, Hohberger discloses that the testing step includes coupling the antenna electronically to the label through at least a portion of the applicator head. Hohberger discloses that the antenna is mounted within the applicator head (see paragraphs 0047-0051). Hohberger discloses that this operation temporarily stops the adhesion process, and ensures proper application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such an testing mechanism and air channel in order to ensure proper RFID application.

As to claim 28, Hogerton does not disclose that the antenna is mounted within the applicator head and at least one air channel is formed in the applicator head and extends around the antenna, and wherein the method further includes the step of evacuating air from the at least one air channel after the test is complete.

Hohberger discloses that the antenna is mounted within the applicator head and at least one air channel is formed in the applicator head and extends around the antenna, and wherein the method further includes the step of evacuating air from the at least one air channel after the test is complete (see paragraphs 0047-0051). Hohberger discloses that this operation temporarily stops the adhesion process, and ensures proper application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such an air channel in order to ensure proper RFID application.

Claim 47 is rejected on similar grounds as claim 23 above.

As to claim 48, Hohberger discloses that antenna is coupled with the applicator head.

As to claim 49, Hogerton discloses moving the applicator head

As to claim 51, Hohberger as incorporated discloses testing the label with an RFID antenna in the applicator head.

As to claims 52-53, Hogerton discloses at least partially separating by fully separating the label (see Figure 11).

4. Claims 27, 29-33, 34-38, 43-44, 54 and 56-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogerton as applied to claims 20-22, 24-26 and 34-36 above, and further in view of Murphy (5,843,252) and Shibata (US 4,784,714).

As to claim 34, Hogerton as applied to claims 20, 21 and 25 (see citations above) discloses a method of applying an RFID label to an item, the label having a transponder, the method comprising the steps of: positioning a label adjacent an application zone; testing the label for viability adjacent the application zone with an RFID antenna; and moving the label to the item if the label is viable and to a reject area if the label is non-viable.

Hogerton does not disclose moving the label by blowing the label.

Murphy discloses that the moving step includes sliding an applicator head carrying the label from a position adjacent the application zone to a position adjacent

the reject area (for example, column 9, lines 55-65). Murphy discloses that such a mechanism prevents the application of defective labels. Additionally, Shibata discloses blowing the label to move as claimed, which allows for accurate application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize such a reject mechanism in order to prevent the application of defective labels and allow the accurate application of non-defective labels.

As to claim 35, Hogerton discloses the step of writing to the label after the test has confirmed a viable label (for example, see paragraph 0055, lines 9-14).

As to claim 36, Hogerton discloses the steps of testing information written to the label for viability of the information (see paragraph 0055, lines 14-16, which discloses verification) and applying the label to the item if the information is viable and moving the label to a reject area if the information is non-viable (see paragraphs 0055-0056).

As to claim 27, Hogerton does not discloses that the moving step includes sliding an applicator head carrying the label from a position adjacent the application zone to a position adjacent the reject area.

Murphy discloses that the moving step includes sliding an applicator head carrying the label from a position adjacent the application zone to a position adjacent the reject area (for example, column 9, lines 55-65). Murphy discloses that such a mechanism prevents the application of defective labels. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize such a reject mechanism in order to prevent the application of defective labels.

As to claim 29, Murphy as incorporated above discloses that the operating step includes the step of moving the label to move the label to the item if the label is viable (see columns 16-17). Shibata discloses the step of blowing the label to move the label to the item if the label is viable.

As to claim 30, Murphy as incorporated above discloses that the blowing step includes operating an air source to move air through air channels formed in an applicator head (see columns 16-17).

As to claim 31, Murphy as incorporated above discloses the step of moving the applicator head toward the item prior to application, and Shibata discloses moving the label by use of the blowing step.

As to claim 32, Murphy as incorporated above discloses that the operating step includes suctioning the label to the applicator head prior to the movement step (Figure 5E, columns 16-17). Shibata makes blowing the label obvious.

As to claim 33, Murphy as incorporated above discloses that further including the step of guiding a carrier web carrying the label around a peel edge (item 108) adjacent the applicator head to separate the label from the carrier web prior to the suctioning step.

As to claim 38, wherein the moving step includes sliding an applicator head carrying the label by suction from a home position adjacent the application zone (down position in Figure 5E) to a reject position (the up position in Figure 5E) adjacent the reject area if the label is non-viable.

As to claim 43, Shibata discloses blowing the label, and Murphy discloses moving the label to a reject zone.

As to claim 44, Hogerton and Murphy discloses moving the applicator head.

As to claim 54, Hogerton as applied to claims 20, 21 and 25 (see citations above in 35 USC 102 section) discloses a method of applying an RFID label to an item, the label having a transponder, the method comprising the steps of: positioning a label adjacent an application zone; testing the label for viability adjacent the application zone with an RFID antenna; and moving the label to the item if the label is viable and to a reject area if the label is non-viable. However, Hogerton does not disclose that these movements are in directions transverse to each other.

Murphy discloses application and ejection in transverse directions (see positioning of reject and application areas. One in the art would appreciate that the relative configuration would depend on the immediate spatial needs and would be easily modified by one of ordinary skill in the art on the basis of the spatial configuration desired, floor space requirements, and mechanical preferences. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such a configuration in order to meet the desired spatial configuration and floor space requirements.

As to claim 56, Shibata discloses blowing the label.

As to claim 57-59, official notice is taken that the movements of the applicator head are well known and conventional. One in the art would appreciate that the relative

movements would depend on the immediate spatial needs, such as the placement of the application zone and the reject zone, and would be easily modified by one of ordinary skill in the art on the basis of the spatial configuration desired, floor space requirements, and mechanical preferences. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such a configuration in order to meet the desired spatial configuration and floor space requirements.

5. Claims 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogerton, Murphy and Shibata as applied to claims 54 above, and further in view of Hohberger (2003/0063001 A1).

As to claim 55, Hogerton does not disclose that the antenna is mounted within the applicator head and at least one air channel is formed in the applicator head and extends around the antenna, and wherein the method further includes the step of evacuating air from the at least one air channel after the test is complete.

Hohberger discloses that the antenna is mounted within the applicator head and at least one air channel is formed in the applicator head and extends around the antenna, and wherein the method further includes the step of evacuating air from the at least one air channel after the test is complete (see paragraphs 0047-0051). Hohberger discloses that this operation temporarily stops the adhesion process, and ensures proper application. Therefore, it would have been obvious to one of ordinary skill in the

art at the time of the invention to have utilized such an antenna mounted within the applicator head in order to ensure proper RFID application.

6. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hogerton and Hohberger as applied to claims 47-49 above, and further in view of Murphy (5,843,252) and Shibata (US 4,784,714).

As to claim 50, Hogerton and Hohberger do not disclose rejecting the label.

Murphy discloses that the moving step includes sliding an applicator head carrying the label from a position adjacent the application zone to a position adjacent the reject area (for example, column 9, lines 55-65). Murphy discloses that such a mechanism prevents the application of defective labels. Additionally, Shibata discloses blowing the label to move as claimed, which allows for accurate application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize such a reject mechanism in order to prevent the application of defective labels and allow the accurate application of non-defective labels.

7. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hogerton, Murphy, and Shibata as applied to claim 34 above, and further in view of Hohberger (2003/0063001 A1).

As to claim 45, Hogerton does not disclose the testing step includes mounting the antenna electronically on the applicator head.

However, Hohberger discloses that the testing step includes coupling the antenna electronically to the label through at least a portion of the applicator head. Hohberger discloses that the antenna is mounted within the applicator head (see paragraphs 0047-0051). Hohberger discloses that this operation temporarily stops the adhesion process, and ensures proper application. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized such an testing mechanism and air channel in order to ensure proper RFID application.

As to claim 46, Hogerton discloses moving the applicator head (see figure 11), and Shibata discloses blowing the label, and Murphy discloses moving to a reject area.

Response to Arguments

8. Applicant's arguments filed 8/4/2005 have been fully considered but they are not persuasive. Applicants arguments are based in part, on modifications of the placement of the antenna, and the movement of the applicator head. While these elements are not in the primary reference, Hohberger discloses combining application heads and antennas, and Murphy discloses generic movements of the applicator head. Shibata discloses using air blow techniques rather than physical movement techniques. Variations of the movement techniques (such as sliding), are considered to be ordinary mechanics techniques, and well within the capabilities of one of ordinary skill in the art.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (571) 272-1230 (TDD only). If the applicant cannot make a direct TDD-to-TDD call, the applicant can communicate by calling the Federal Relay Service at 1-866-377-8642 and giving the operator the above TDD number. The examiner can normally be reached on M-Th 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

George R. Koch III
Patent Examiner
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GRK
10/15/2005

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